

REMARKS

Claims 1 - 15 remain active in this application. No new matter has been introduced into the application.

Restriction has been required between the inventions, as identified by the Examiner, of Group I, claims 1 - 8, and Group II, claims 9 - 15. Provisional election of Group I has been made with traverse above.

While the Examiner is correct in the statement of the criterion for demonstrating distinctness between claims to a device and claims to a method of making the device, it is respectfully submitted that the example asserted by the Examiner in support of such a demonstration is not reasonable. Simply put, a raised source and drain (RSD) structure provides increased semiconductor (e.g. silicon) thickness in the source and drain regions of a transistor to reduce series resistance of the transistor, particularly where the channel is extremely thin, as noted at page 2, lines 29 - 32, of the specification. The invention, as claimed, provides this additional thickness by providing particular masking steps and epitaxial growth in the source and drain regions. The Examiner asserts that raising the source and drain could be achieved by using ion implantation; rendering the process materially different from that claimed. However, it is respectfully submitted that ion implantation, while materially different from epitaxial growth, will not and cannot result in a raised source and drain structure. It is also respectfully pointed out, in this regard, that the invention also involves ion implantation which has no significant effect on thickness of semiconductor material and certainly not to the extent of providing a RSD structure which must be separately provided in addition to the ion implantation process. Further, it is respectfully pointed out that epitaxial growth provides additional

material having the same crystal structure as the underlying material while ion implantation, even followed by annealing, disrupts or distorts the crystal structure and is thus a different structure having different electrical properties and not the same device. Therefore, the example asserted by the Examiner is not reasonable and would not result in the claimed device. Accordingly the Examiner has not made a *prima facie* demonstration of distinctness of the inventions to support the requirement for restriction.

Moreover, it is respectfully submitted that such an illusory assertion of a materially different process for manufacturing the claimed device may be prejudicial to patentability of the claims to the device either in this application or in a divisional application and this traverse is presented to avoid any admission being inferred from present or future acquiescence in the requirement for restriction based on the erroneous rationale which the Examiner has asserted. Further, a requirement based on such a clearly erroneous rationale does not logically establish a line of distinction between inventions which have not, in fact, been properly demonstrated to be distinct at all. Accordingly, since the Examiner has not, in fact, made a *prima facie* demonstration of distinctness of the identified inventions in support of the requirement for restriction, reconsideration and withdrawal of the requirement for restriction and an action on the merits of all claims in the application are respectfully requested.

Since all requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is

also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 09-0458 of International Business Machines Corporation (E. Fishkill).

Respectfully submitted,



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